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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|------------------------------------------------------------------------------------------------------------------------|-------------|------------------------|-----------------------------|------------------------|
| 10/560,929 | 09/25/2006 | Leobardo Montiel-Ortiz | MONTIEL-ORTIZ1 | 4079 |
| 1444 7590 12/27/2007 BROWDY AND NEIMARK, P.L.L.C. 624 NINTH STREET, NW SUITE 300 WASHINGTON, DC 20001-5303 | | | EXAMINER REDDY, KARUNA P | |
| | | | ART UNIT 1796 | PAPER NUMBER |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|---------------------------------------------|--|
| Office Action Summary | Application No. 10/560,929 | Applicant(s) MONTIEL-ORTIZ ET AL. | |
| | Examiner Karuna P. Reddy | Art Unit 1796 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 October 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 6, 8, 10-14, 16, 17 and 19-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6, 8, 10-14, 16, 17 and 19-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This office action is in response to amendment filed on 10/29/2007. Applicant amended claims 1-4, 6, 8, 10-14, 16-17; cancelled claims 5, 7, 9, 18; and added claims 19-21. Claims 1-4, 6, 8, 10-17 and 19-21 are currently pending in the application.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 102

3. Claims 1, 3-4, 6, 8 and 10 are rejected under 35 U.S.C. 103(a) as being anticipated by Bilech et al (US 4, 772, 667).

The rejection is adequately set forth in paragraph 5 of office action mailed 7/30/2007.

4. Claims 1 3-4, 6, 8 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Bilech et al (US 4, 680, 337).

The rejection is adequately set forth in paragraph 6 of office action mailed 7/30/2007.

5. Claims 1-4, 6, 8 and 10-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Morita et al (US 6, 310, 148 B1).

The rejection is adequately set forth in paragraph 7 of office action mailed 7/30/2007.

Claim Rejections - 35 USC § 103

6. Claims 13-17 and 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bilech et al (US 4, 772, 667) in view of Toya et al (US 6, 107, 411).

The rejection of claims 13-17 is adequately set forth in paragraph 10 of office action mailed 7/30/2007. Furthermore, Bilech discloses that the thermoplastic composition has good processing characteristics and may be used in all types of fabrication equipment, including extrusion molding. These properties combine to permit the composition to be used in a wide variety of end uses, and especially for packaging and containers (column 6, lines 64-68; column 7, lines 1-3).

7. Claims 13-17 and 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bilech et al (US 4, 680, 337) in view of Toya et al (US 6, 107, 411).

The rejection of claims 13-17 is adequately set forth in paragraph 10 of office action mailed 7/30/2007. Furthermore, the thermoplastic composition has good processing characteristics and may be used in all types of fabrication equipment, including extrusion molding. These properties combine to permit the composition to be used in a wide variety of end uses, and especially for packaging and containers (column 6, lines 59-66).

8. Claims 13-17 and 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morita et al (US 6, 310, 148 B1) in view of Toya et al (US 6, 107, 411).

The rejection of claims 13-17 is adequately set forth in paragraph 10 of office action mailed 7/30/2007. The styrene resin composition can be formed into various molded products by a molding method such as extrusion molding. Their application extends to a wide variety of products such as components for housing, cleaner boxes, sheet wrapping vessels for foods etc (column 11, lines 56-67; column 12, lines 1-2).

9. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bilech et al (US 4, 772, 667) in view of Toya et al (US 6, 107, 411) and Kanno et al (US 6, 153, 698).

The discussion with respect to Bilech et al in view of Toya et al in paragraph 6 above is incorporated here by reference.

Bilech et al is silent with respect to the use of this composition in blister packages.

However, Kanno et al teaches styrene based resin compositions which have acceptable molding properties and rigidity concomitant with high impact strength (column 1, lines 16-18). The styrene based monomers include styrene, methylstyrene, t-butyl styrene (column 5, lines 3-12). The styrene based monomers may be copolymerized with copolymerizable monomers such as methyl methacrylate, ethyl acrylate and butyl acrylate (column 5, lines 18-22). The rubbery polymers used may be styrene-butadiene copolymers, butadiene-isoprene copolymers (column 6, lines 24-27). The composition can be used for variety of products having well balanced rigidity, impact resistance and surface appearance of molded articles such as blister packs (column 11, lines 7-11). Therefore, it would have been obvious to one skilled in the art at the time invention was made to use the composition of Bilech et al in view of Toya et al in making blister packs because Kanno et al have proven successfully the utilization of similar composition in making blister packages and one of ordinary skill in the art would expect it to work for the composition of Bilech in view of Toya et al, motivated by expectation of success.

10. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bilech et al (US 4, 680, 337) in view of Toya et al (US 6, 107, 411) and Kanno et al (US 6, 153, 698).

The discussion with respect to Bilech et al in view of Toya et al in paragraph 7 above is incorporated here by reference.

Bilech et al is silent with respect to the use of this composition in blister packages.

However, Kanno et al teaches styrene based resin compositions which have acceptable molding properties and rigidity concomitant with high impact strength (column 1, lines 16-18). The styrene based monomers include styrene, methylstyrene, t-butyl styrene (column 5, lines 3-12). The styrene based monomers may be copolymerized with copolymerizable monomers such as methyl methacrylate, ethyl acrylate and butyl acrylate (column 5, lines 18-22). The rubbery polymers used may be styrene-butadiene copolymers, butadiene-isoprene copolymers (column 6, lines 24-27). The composition can be used for variety of products having well balanced rigidity, impact resistance and surface appearance of molded articles such as blister packs (column 11, lines 7-11). Therefore, it would have been obvious to one skilled in the art at the time invention was made to use the composition of Bilech et al in view of Toya et al in making blister packs because Kanno et al have proven successfully the utilization of similar composition in making blister packages and one of ordinary skill in the art would expect it to work for the composition of Bilech in view of Toya et al, motivated by expectation of success.

11. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Morita et al (US 6, 310, 148 B1) in view of Toya et al (US 6, 107, 411) and Kanno et al (US 6, 153, 698).

The discussion with respect to Morita et al in view of Toya et al in paragraph 8 above is incorporated here by reference.

Bilech et al is silent with respect to the use of this composition in blister packages.

However, Kanno et al teaches styrene based resin compositions which have acceptable molding properties and rigidity concomitant with high impact strength (column 1, lines 16-18). The styrene based monomers include styrene, methylstyrene, t-butyl styrene (column 5, lines 3-12). The styrene based monomers may be copolymerized with copolymerizable monomers such as methyl methacrylate, ethyl acrylate and butyl acrylate (column 5, lines 18-22). The rubbery polymers used may be styrene-butadiene copolymers, butadiene-isoprene copolymers (column 6, lines 24-27). The composition can be used for variety of products having well balanced rigidity, impact resistance and surface appearance of molded articles such as blister packs (column 11, lines 7-11). Therefore, it would have been obvious to one skilled in the art at the time invention was made to use the composition of Morita et al in view of Toya et al in making blister packs because Kanno et al have proven successfully the utilization of similar composition in making blister packages and one of ordinary

skill in the art would expect it to work for the composition of Biletech et al in view of Toya et al, motivated by expectation of success.

Response to Arguments

12. Applicant's arguments, see page 9, lines 1-12, filed 10/29/2007, with respect to claims 1-4, 7, 9, 11-12, 14, 16 and 18 have been fully considered and are persuasive. The objection to claims 1-4, 11-12, 14, 16 and 18 has been withdrawn in view of amendments.
13. Applicant's arguments, see page 9, lines 1-12, filed 10/29/2007, with respect to claims 7 and 9 are moot in view of their cancellation.
14. Applicant's arguments filed 10/29/2007 have been fully considered but they are not persuasive. Specifically, applicants argue that (A) Biletech '667 and Biletech '337 does not prepare a random copolymer prior to preparing thermoplastic polymer and obtain a heterogeneous product having a salami morphology with butadiene particles; (B) Morita uses only two components for copolymer "A" while the presently claimed random copolymer comprises three components; (C) Biletech '667, Biletech '337 and Morita polymerizes all components in a reactor; (D) block polymer amount used in the cited patents is less than that used in applicant's invention; and (E) none of the cited patents suggest first obtaining a

random copolymer and then creating a mixture of this random copolymer with a block copolymer.

With respect to (A) and (C), the present claims are not directed to a process of making the random copolymer and the morphology of the random copolymer is not recited in the rejected claims. The cited references disclose polymerization of all monomers recited in present claims.

With respect to (B), Morita et al in example 5 lists the monomer mixture as comprising styrene, methyl methacrylate and butyl acrylate in amounts of 83 parts, 15 parts and 2 parts respectively. Reference to this aspect is already made in paragraph 7 of office action mailed 7/30/2007.

With respect to (D), applicant is referring to the amount of block polymer in Bilech '667, Bilech '337 and Morita et al and these patents are not used independently, in the office action mailed 7/30/2007, to reject claims 13-17, which recite a blend of random copolymer and block copolymer.

With respect to (E), motivation to combine random copolymer with block copolymer is provided in paragraph 10 of office action mailed 7/30/2007 and is incorporated here by reference.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.**

See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karuna P. Reddy whose telephone number is (571) 272-6566.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on (571) 272-1119. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Karuna P Reddy
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Art Unit 1796

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